

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

BRUCE LEROY PERRY, §  
§  
VS. § CIVIL ACTION NO.4:08-CV-028-Y  
§  
NATHANIEL QUARTERMAN, §  
Director, T.D.C.J. §  
Correctional Institutions Div., §

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

In this action brought by petitioner Bruce Leroy Perry under 28 U.S.C. § 2254, the Court has made an independent review of the following matters in the above-styled and numbered cause:

1. The pleadings and record;
2. The proposed findings, conclusions, and recommendation of the United States magistrate judge filed on January 23, 2009; and
3. The petitioner's written objections to the proposed findings, conclusions, and recommendation of the United States magistrate judge filed on February 13, 2009.

The Court, after **de novo** review, concludes that the Petitioner's objections must be overruled, and that the petition for writ of habeas corpus should be denied, for the reasons stated in the magistrate judge's findings and conclusions, and as set forth herein.

In his written objections to the magistrate judge's report and recommendation, Perry recites additional allegations of ineffective assistance of counsel. These particular claims have never been raised, and are not properly before the Court. Further, Perry did not raise the claims in his state application for writ of habeas corpus, and if he now returned to state court, such claims would be procedurally barred under the Texas abuse of the writ doctrine.

Thus, even to the extent the Court were to construe the objections as raising amended claims for relief, all such new grounds for relief asserted in the objections are procedurally defaulted and barred from this Court's review.<sup>1</sup>

Therefore, the findings, conclusions, and recommendation of the magistrate judge are ADOPTED.

Bruce Leroy Perry's petition for writ of habeas corpus is DENIED.

SIGNED February 18, 2009.

  
TERRY R. MEANS  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup>See generally *Nobles v. Johnson*, 127 F.3d 409, 423 (5<sup>th</sup> Cir. 1997) (finding unexhausted claim, which would be barred by the Texas abuse-of-the-writ doctrine if raised in a successive state habeas petition, to be procedurally barred).